



Statewide Health Care Costs, Select Committee:  
The Honorable Greg Bonnen MD, Chair  
The Honorable Senfronia Thompson, Vice Chair  
The Honorable Garnet Coleman  
The Honorable Philip Cortez  
The Honorable James B. Frank  
The Honorable Cody Harris  
The Honorable Cole Hefner  
The Honorable Stephanie Klick  
The Honorable Eddie Lucio III  
The Honorable Christina Morales  
The Honorable Tom Oliverson MD

October 1, 2020

Honorable Members of the Statewide Health Care Costs Select Committee,

On behalf of The Texas Association of Freestanding Emergency Centers (TAFEC), we would like to submit the following information for the interim charges related to the information on health care costs in Texas.

TAFEC is a member-based association representing more than 100 freestanding emergency centers and an industry which employs nearly five thousand Texans. As you may know, Freestanding Emergency Centers (FECs) are fully equipped emergency departments staffed by board-certified, emergency medicine-trained physicians and registered nurses who are on-site 24 hours a day, seven days a week. These facilities are fully equipped for all medical emergencies, are highly regulated by the state and comply with all state EMTALA requirements, which mandate treatment of all patients regardless of their ability to pay.

FECs have been a valuable resource during this national health crisis in treating Texans as well as helping relieve pressure on overburdened hospitals. Many healthcare facilities first opted not to offer COVID-19 assessments, leaving FECs, hospitals, and government entities as the lone providers willing or able to take the risk. As the demand grew, it was not uncommon to see patients waiting for many of the government and community testing centers' appointments for 7-14 days after exposure or onset of symptoms, which put pressure on FECs for those patients seeking immediate care.

Despite the surge in patients and the costs of treating and testing them, FECs were not eligible to apply for any federal provider relief dollars. TAFEC members at their own expense obtained

testing machines, PPE, and supplies at above-market costs to continue to treat both patients with exposure and mildly symptomatic patients. TAFEC member facilities were also forced to secure supplies outside of their standard supply chain and develop new relationships with outside laboratories to process COVID-19 specimens. To continue to meet patient demand, FECs hired extra staff, worked longer hours and changed their operations and intake processes to keep patients and staff safe.

TAFEC has and will continue to support the appropriate utilization of FECs for access to emergency care. TAFEC supports FECs in complying with their legal obligations to provide every patient with an appropriate medical screening consistent with their symptoms and condition. TAFEC strongly encourages all facilities, including FECs, to disclose to patients and to the public the full scope of their charges for services, including COVID-19 and associated testing.

We welcome the opportunity to answer the Committee's questions.

### **INTERIM CHARGE 1: Examine the primary drivers of increased health care costs in Texas.**

#### **Reduce barriers for FECs to offer non-emergent care and allow for more FECs to offer hybrid services.**

Currently, FECs are not permitted to provide non-emergent care such as out-patient services, although they possess all of the resources to do so. Services they are equipped to provide could include; testing, infection assessment, pharmacy, lab work, radiology, imaging and other vital services, allowing FECs to fill the void in rural communities where critical access hospitals have closed. Due to its size and vast rural areas, Texas leads the nation in rural hospital closures. Since 2010, 17 of the nation's 100-plus rural hospital closures — which include facilities that have stopped offering short-term, acute inpatient care have occurred in Texas. FECs could fill this void with offering both emergent and non-emergent care.

In an effort to lower health care costs for Texan's during this national health crisis, TAFEC sent a letter to The Texas Health and Human Services Commission on July 28, 2020, requesting the ability for its members to allow them to provide non-emergent services and testing. If allowed to offer non-emergent care, our members and FECs in general would be able to lower the cost to the healthcare system of COVID-19 testing and treatment. The need for FECs to provide non-emergent care during this crisis will be even more crucial when a vaccine becomes available. FECs are open 24 hours, which is key in administering the vaccine to help slow the spread of COVID-19.

This regulatory request mirrors HB 1278 from the 86th legislative session. Representative James White authored House Bill 1278 which would have allowed freestanding emergency medical care facilities the ability to offer outpatient acute care services. The bill was voted unanimously out of House Public Health Committee but never made it out of Calendars. If House Bill 1278 had made it into law, it would have allowed state licensed FECs to offer non-emergent care during this pandemic.

## **Excessive or Fraudulent Charges**

TAFEC encourages any accusation of price gouging or fraudulent be sent to the Consumer Protection Division at the Attorney General's office. HB 1941 passed during the 86th Legislative Session, which allows for the Attorney General's office to take action if the agency determines the charges for any medical care meets the new definition of unconscionable. TAFEC supports the legislation and believes the Attorney General's office is the appropriate avenue to ultimately determine when price gouging takes place in Texas. TAFEC believes that health care providers must issue fees that are consistent with the level of care provided to a patient.

It is unclear whether HB 1941 includes COVID-19 testing or physician claims. TAFEC recommends that the Attorney General's office should have the capability to take action against COVID-19 claims and physician claims that might meet the definition of unconscionable.

We applaud our state's strong leadership and tremendous work during this time. Thank you for your time and attention to these important matters.

Sincerely,

Brad Shields

On behalf of the Texas Association of Freestanding Emergency Centers (TAFEC)

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